

**ZONING BOARD OF APPEALS
MEETING MINUTES**

FEBRUARY 7, 2005

PRESENT: Mary Cardin, Kenneth Braga, Robert Palozej, Alfred Francis, and Alternate Robert Wambolt

ABSENT: Mark Spurling and Richard Cleary and Alternates Joseph Snyder and Adam LaFleche

STAFF

PRESENT: Reanna Goodreau, Recording Secretary

I. CALL TO ORDER:

Chairman Cardin called the Zoning Board of Appeals (ZBA) meeting to order at 7:05 PM at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT.

II. PUBLIC COMMENTS: NONE

III. PUBLIC HEARINGS:

Chairman Cardin stated that they would begin with item #3 under public hearings and then return to original agenda order.

3. #V200503–Emile Picard for location approval of a used car dealer license on property located at 85 West Road, APN 028-018-0000 in a C Zone.

TIME: 7:06 PM

SEATED: M. Cardin, K. Braga, R. Palozej, A. Francis, and R. Wambolt

Emile Picard, applicant, explained that he is looking to open a used car dealership at 85 West Road. He noted that there 10 display spaces and that if he wanted to increase the number of display spaces, he would apply for the appropriate approvals.

Commissioner Braga asked about parking of display vehicles at the corner of Middle Butcher Road and Route 83. Mr. Picard stated that there is a landscape island at that corner, which he will maintain and which prohibits the display of vehicles.

MOVED (PALOZEJ), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200503—EMILE PICARD.

MOVED (BRAGA), SECONDED (PALOZEJ) AND PASSED UNANIMOUSLY TO APPROVE #V200503—EMILE PICARD.

1. #V200501—Cumberland Farms, Inc. for variances to Ellington Zoning Regulations, Section 5.3(g)(1)(a)&(b), Variations in Area & Yard Requirements/Additional Yard Requirements; Section 5.2 Footnote 1, Footnotes to Area & Yard Requirements Schedule; Section 5.3c(1), Variations in Area & Yard Requirements/Construction in Required Yards; Section 7.7d5(a) &(c), Minimum Parking & Loading Space Requirements/Location of Parking Facilities; Section 7.7b(6)(a)(3), Signs/Detached Signs Permitted in C, PC, I, & IP Zones: to reduce front yard setback along Wapping Wood Road from 62.25 feet to 49.4 feet for a convenience store and to 27.1 feet for a gas canopy and to reduce front yard setback along Windsorville Road from 57.25 feet to 29.6 feet for a gas canopy; to increase fence height from 2.5 feet to 6 feet for dumpster enclosure; to reduce setback from parking to a structure from 20 feet to 7 feet; to reduce parking setback from front property line from 30 feet to 14.4 feet along Wapping Wood Road and reduce parking setback from 30 feet to 7.4 feet along Windsorville Road; to increase sign area for a detached sign to 36 square feet and increase height to 14 feet for construction of detached sign in conjunction with a convenience store and gas station on property located at 5 Wapping Wood Road, APN 026-009-0000 in a C Zone.

TIME: 7:15 PM

SEATED: M. Cardin, K. Braga, R. Palozej, A. Francis, and R. Wambolt

Attorney Marvin Bellis, counsel for the applicant, came forward to explain the proposal. He noted that since the Cumberland Farms previous application, the proposal has been modified to incorporate comments from those meetings. Attorney Bellis stated that the scope of the project has been reduced. Specifically, the size of the store has been reduced from 4,185 square feet to 3,510 square feet, the number of pumps has been reduced from 16 to 12, and the size of the sign has been reduced from 60 square feet and 18-20 feet in height to 48 square feet and 14 feet in height. He noted that these reductions have eliminated and reduced some of the previous variance requests. Attorney Bellis reviewed the existing site conditions and showed the location of setback area that the buildings must be placed. He mentioned that the ZBA previously granted variances in relation to the existing canopy. He continued by reviewing each variance request.

Jim Cranston, engineer for the applicant, reviewed the proposal. He noted that the side yard setback variance request for the building was eliminated, as well as the front yard setback request for the building to Windsorville Road. Mr. Cranston explained that the two curb cuts closest to the intersection are one way in order to allow for fuel drop off. Commissioner Braga

stated that the vacuum service area is very close to the curb cut and asked if the two spaces could be removed. Mr. Cranston explained that 10 parking spaces are required and 16 are proposed. Attorney Bellis stated that he did see a problem with removing the two spaces.

Mark Bertucci, traffic engineer for the applicant, stated that the traffic study from July 2004 concluded that additional traffic from the expansion would not impact the surrounding streets. He noted that an addendum to the study was submitted to reflect the changes of the proposal. He also explained that they included traffic from new residential developments in the vicinity of the subject property when calculating traffic counts.

Attorney Bellis explained that there are two issues that the ZBA must consider when making their decision. One issue is if there is a hardship, which Attorney Bellis noted that the restrictions of the triangle created by the building setback create this hardship. Another issue is the scope of the proposal, which Attorney Bellis noted has nothing to do with hardship. He stated that the board must decide whether the scope of the project is suitable.

Many abutters of the project came forward and expressed their concerns. The issues raised included: increased traffic, traffic flow, light pollution, and noise pollution. Direct abutters were concerned about privacy. Attorney Bellis noted that they would offer any type of vegetation and fencing on the Cumberland Farms property to mitigate impacts to the adjacent properties. He also stated that the lighting will actually improve because floodlights will no longer be used.

Commissioner Braga stated that the detached sign should meet the existing regulations.

MOVED (WAMBOLT), SECONDED (PALOZEJ) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200501—CUMBERLAND FARMS, INC.

MOVED (BRAGA), SECONDED (WAMBOLT) AND PASSED (5:1; NAY: CARDIN) TO APPROVE WITH MODIFICATION #V200501—CUMBERLAND FARMS, INC.

MODIFICATION: REMOVE TWO PARKING SPACES FROM THE NORTHWEST CORNER ALONG WINDSORVILLE ROAD.

HARDSHIP: LOT CONFIGURATION & TWO REQUIRED FRONT YARDS.

2. #V200502—Dzen Brothers, Inc. for variances to Ellington Zoning Regulations, Section 5.2 Footnote 6, Footnotes to Area & Yard Requirements Schedule; Section 7.7d5(a)&(c) Location of Parking Facilities; Section 7.7d7(b) Landscaping and Lighting; Section 7.7b(6)(a)(1)&(2) Detached Signs Permitted in C, PC, I, & IP Zones/General Requirements: to reduce side yard setback from 50 feet to 47 feet for greenhouses; to reduce setback from parking to a structure from 20 feet to 0 feet & to reduce side yard setback from 30 feet to 20 feet for parking; to reduce interior landscaping from 15% to 4.71%; to reduce setback from 15 feet to 13 feet for existing sign and to allow for a second detached sign for use in conjunction with a garden market on properties located at 187 Windsorville Road & 8 Pinney Street, APN 009-041-0000 & 009-042-0000 in a PC Zone.

TIME: 9:02 PM

SEATED: M. Cardin, K. Braga, R. Palozej, A. Francis, and R. Wambolt

Attorney Woodcock, counsel for the applicant, came forward to explain the proposal. He noted that the Dzens have operating their business since 1998. He explained that the applicant is before the commission because of a few minor technical issues that were raised after the Planner reviewed the proposal for the greenhouses.

Peter DeMallie, engineer for the applicant, reviewed each variance requested. He noted that there is gravel parking within 20' to the side property line, but that it is not heavily used for parking. He also explained that the parking is closer to the building because it is difficult to delineate gravel parking spaces and that if the parking had to be 20' from the proposed building, it would be closer to Pinney Street. Mr. DeMallie stated that the variance request to 47' to the side property would not even be noticeable. He noted that they are also requesting a second detached sign to allow for patrons to know the location of the Pinney Street entrance and a variance to allow the existing sign to remain 13' from the property line. Mr. DeMallie stated that his clients did not want to have to relocate the existing sign due to the extensive irrigation system and plantings. He also explained that there was a variance request to allow only 4.71% interior landscaping. He continued by reviewing the factors for the commission to consider and the hardships.

Chairman Cardin asked why these requests weren't included during their application in September. Mr. DeMallie explained that he was not aware that some of the regulations were applicable, that the orientation of the greenhouse changed, and that they were taking care of some technicalities. Chairman Cardin stated that she was concerned about allowing parking up to the structures. Commissioner Braga suggested installing bollards between the parking space and the existing and proposed structures. The applicant was not opposed to installing bollards between the parking spaces and the buildings.

MOVED (BRAGA), SECONDED (WAMBOLT) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200502—DZEN BROTHERS, INC.

MOVED (BRAGA), SECONDED (PALOZEJ) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITION #V200502—DZEN BROTHERS, INC.

CONDITION: MUST INSTALL BOLLARDS BETWEEN BUILDINGS AND PARKING SPACES.

HARDSHIP: LOT CONFIGURATION & CORRECTING EXISTING NON-CONFORMITIES.

IV. UNFINISHED BUSINESS:

1. General Discussion of Zoning Regulations

TABLED TO THE MARCH 7, 2005 MEETING.

V. NEW BUSINESS:

1. Budget Preparations for FY 05-06

BY CONSENSUS, THE BOARD REQUESTED THAT THE FY 05-06 BUDGET REMAIN THE SAME AS THE FY 04-05 BUDGET.

VI. ADMINISTRATIVE BUSINESS:

1. Approval of the January 3, 2005 Meeting Minutes

MOVED (WAMBOLT), SECONDED (BRAGA) AND PASSED (ABSTAINED: PALOZEJ) TO APPROVE THE JANUARY 3, 2005 MEETING MINUTES WITH THE FOLLOWING CORRECTIONS: 1) PAGE 3, UNDER NEW BUSINESS, #2 GENERAL DISCUSSION OF ZONING REGULATIONS, PARAGRAPH 2, 1ST SENTENCE—INSERT “AMOUNT” BETWEEN “SMALL” AND “OF” & 2ND SENTENCE—CHANGE “ON” TO “ONE.”

2. Correspondence:
 - a. Letter to Boards from Dennis Milanovich dated, 1/7/05
 - b. Memo to Land Use Commissions from Matt Davis dated, 1/28/05

SO NOTED.

VII. ADJOURNMENT:

MOVED (BRAGA), SECONDED (WAMBOLT) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING AT 9:41 PM.

Respectfully Submitted,

Reanna Goodreau
Recording Secretary